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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,310	04/20/2005	Graham Kalazich	201423-9004	6012

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EXAMINER

ARK, DARREN W

ART UNIT PAPER NUMBER

3643

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/505,310	Applicant(s) KALAZICH, GRAHAM	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 100-143 is/are pending in the application.
- 4a) Of the above claim(s) 104-143 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 100-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/4/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 104-143 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/7/2005.
2. Applicant's election with traverse of Group I, Species I in the reply filed on 12/7/2005 is acknowledged. The traversal is on the ground(s) that "Group I, Species I corresponds with claims 100-105 (Figures 1-5)...claim 106...claims 107-110...has a linking relationship with Group I, Species I...in addition to Group I, Species VI (Figures 6-7) to which the Office Action contends claim 106 belongs...shaded areas of FIG. 1...correspond to the 'plurality of rings in series...' of claim 106...", "method claims 111-115...have been amended to mirror claims 100-110 and, therefore claims 111-115 having a linking technical relationship with Group I, Species I...being essentially limited to methods for making the apparatuses recited in claims 100-106", and "In the case at hand...has not alleged that there would be an undue burden on the Examiner if restriction were not required...". This is not found persuasive because it is clear from applicant's specification that the interpretation of Fig. 1 as having a "plurality of rings in series" similarly to what is shown in Figs. 6 and 7 is incorrect since at specification page 7, lines 21-24 it states "...sleeve 10...plurality of apertures in the form of holes are defined in the sock sleeve as shown". There is no discussion with regard to the

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embodiment that there are rings defined between the rows of holes. With regard to applicant's argument that amending claims 111-115 so as to have similar limitations to claims 100-110, the Examiner contends that the process would be examined and included with elected Group I, Species I if the process is specially adapted for the manufacture of the product of Group I, Species I and if it inherently results in the product of Group I, Species I. Thus, a process shall be considered to be specially adapted for the manufacture of the product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process. In this instance, although the technical relationship may exist, the claimed process for manufacture of the product does not inherently result in the claimed product since the process could result in the manufacture of other products, such as protective coverings for tips of fingers such as a flexible thimble or sexual products such as condoms. In regard to applicant's argument that examination of Groups I and II together would not result in undue burden on the Examiner, the Examiner contends that examination of claim 111 for instance would result in additional burden on the Examiner to further search Class 264 Plastic and Nonmetallic Article Shaping or Treating Processes with subclass 632, defined for producing hollow article (e.g. tube, etc.) and subclass 635, defined for utilizing core mandrel (under subclass 632) as being the starting point of a search required by the Examiner in additional Class 264.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 100-103 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Wyatt 6,871,442.

Wyatt discloses a resiliently deformable receptacle (10 made of expandable plastic) with an open end (14) and a closed end (16); a plurality of apertures (openings in mesh).

5. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kandlbinder et al. 6,247,260.

Kandlbinder et al. discloses a resiliently deformable receptacle (10 of pliable plastic material) with an open end (16) which is reinforced (with 22) and a closed end (18); a plurality of apertures (mesh material of 20).

6. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hudson 4,961,280.

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Hudson discloses a resiliently deformable receptacle (10, pouch 26 made of transparent porous plastic or rubber like material) with an open end (34) which is reinforced (with 38 having 42, 46) and a closed end (32); a plurality of apertures (28).

7. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wood 4,839,982.

Wood discloses a resiliently deformable receptacle (5 of plastic netting) with an open end (13) which is reinforced (with 9) and a closed end (15); a plurality of apertures (open mesh material).

8. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jay 2,839,866.

Jay discloses a resiliently deformable receptacle (10) with an open end (generally at 20) which is reinforced (at 22) and a closed end (at 30); a plurality of apertures (mesh).

9. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Romaniszyn et al. 4,984,582.

Romaniszyn et al. discloses a resiliently deformable receptacle (20; the bait is not being positively recited as part of the desired invention therefore the Romaniszyn et al. patent is capable of receiving bait as functionally recited) with an open end (22) which is reinforced (24, 26, 28) and a closed end (30); a plurality of apertures (5).

10. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Benjamin 4,846,197.

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Benjamin discloses a resiliently deformable receptacle (10; the bait is not being positively recited as part of the desired invention therefore the Benjamin patent is capable of receiving bait as functionally recited) with an open end (at 16) which is reinforced (16) and a closed end (15); a plurality of apertures (20).

11. Claims 100-103 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vadnais 2,225,089.

Vadnais discloses a resiliently deformable receptacle (6 made of rubber; the bait is not being positively recited as part of the desired invention therefore the Vadnais patent is capable of receiving bait as functionally recited) with an open end (at top of 12) which is reinforced (via 14) and a closed end (bottom of 6); a plurality of apertures (8).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA